

July 22, 2016

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***Notice of Ex Parte Presentation***

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

***Re: WC Docket No. 12-375, Inmate Calling Service***

Dear Ms. Dortch:

On July 20, 2016, Vincent Townsend, President of Pay Tel Communications, Inc. ("Pay Tel"), and Marcus Trathen of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, regulatory counsel to Pay Tel, met with Jacob Lewis, Sarah Citrin, and Richard Mallen of the General Counsel's Office, and Christine Sanquist, Attorney Advisor with the Pricing Policy Division of the Wireline Competition Bureau.

The backdrop for the meeting was the Fact Sheet issued on July 14, 2016 in the above-referenced docket announcing that Chairman Wheeler and Commissioner Clyburn have circulated a proposed order on reconsideration proposing to increase the applicable rate caps set forth in the Second Report and Order, with the increases tied to demonstrated costs incurred by facilities in providing access to ICS. Pay Tel presented its view that any order implementing the Fact Sheet should make clear that a per-minute fee, not to exceed the additives referenced in the Fact Sheet, may be collected by ICS providers and remitted to facilities in lieu of other payments. This approach could be implemented through a regulatory directive or through a rebuttable presumption, but in either case the Commission has authority to regulate the payments made by ICS providers to confinement facilities under Sections 201 and 276 of the Act. Pay Tel further emphasized the need to clarify whether and how site commission payments may be made by ICS providers to confinement facilities, especially in light of the differing interpretations of the applicable legal requirements that have been publicly avowed by providers, the FCC's Public Notice released August 20, 2014 stating that the Commission may examine the payment of site

commissions in connection with any claim that rates exceed the reasonable cost of providing ICS,<sup>1</sup> and the FCC's repeated admonitions that site commissions cannot be included in consumer rates.<sup>2</sup>

More generally, Pay Tel presented its views that permitting a rate additive designed to recover facility costs will enhance welfare and serve the public interest by helping to align the interests of facilities with consumers as facilities will seek to maximize revenue recovery by encouraging providers to compete based on lowering rates to consumers; will help to address legal and administrative flaws in the Commission's previous approach to ICS reform; and will help deter litigation and create a more certain, predictable and sustainable regulatory environment for the benefit of providers, facilities and consumers.

No hand-outs or other documents were presented during the meeting.

In accordance with Section 1.1206 of the Commission's rules, this letter is submitted for inclusion in the record of the above-captioned proceeding.

Please do not hesitate to contact the undersigned should any questions arise concerning this notice.

Sincerely yours,

/s/ Marcus W. Trathen  
Marcus W. Trathen

cc: Jacob Lewis (via email)  
Sarah Citrin (via email)  
Richard Mallen (via email)  
Christine Sanquist (via email)

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<sup>1</sup> Public Notice, Wireline Competition Bureau Addresses the Payment of Site Commissions for Interstate Inmate Calling Services, WC Docket No. 12-375, DA 14-1206 (rel. Aug. 20, 2014).

<sup>2</sup> See, e.g., *Rates for Interstate Inmate Calling Services*, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 15-16 (Rel. Nov. 5, 2015), at n. 396 (".... [site commissions] cannot be recovered through ICS rates unless they are 'reasonably and directly related to the provisions of ICS.'") (citing First Report and Order, ¶ 55).